

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE S. JAMES OTERO, U.S. DISTRICT JUDGE

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5 SYL JOHNSON a/k/a SYLVESTER THOMPSON)
d/b/a SYL-ZEL MUSIC and TWILIGHT)
6 RECORDS,)

) Case No.

7 Plaintiff,) 18-cv-7600-SJO (AGRx)

8 vs.)

9 UMG RECORDINGS, INC., a Delaware)
Corporation as successor by merger)
10 to MCA RECORDS, INC., individually)
and d/b/a GEFFEN RECORDS, MCA)
11 RECORDS, UME, UMD and RESPECT THE)
CLASSICS,)

12 Defendant.)

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16 REPORTER'S TRANSCRIPT OF
MANDATORY SCHEDULING CONFERENCE
17 MONDAY, JANUARY 7, 2019
8:46 A.M.
18 LOS ANGELES, CALIFORNIA

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LOS ANGELES, CALIFORNIA; MONDAY, JANUARY 7, 2019

8:46 A.M.

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THE COURTROOM DEPUTY: Calling Item No. 3:

5 Case number CV 18-07600 SJO; Syl Johnson versus UMG Recordings,
6 Inc.

Counsel, please state your appearances.

8 MS. CALDWELL: Kathleen Caldwell. Do you want my
9 address?

10 THE COURTROOM DEPUTY: No, Counsel, just your name.

11 MS. CALDWELL: Kathleen Caldwell.

12 MS. GIERL: And Maura Gierl on behalf of defendant
13 UMG Recordings.

14 THE COURT: Good morning.

15 The matter is here for a scheduling conference. This is a
16 case that was transferred from the Middle District of
17 Tennessee, Nashville Division, on August 29th, 2018. It's a
18 complaint for fraud, claim of fraud involving the defendant,
19 and it's -- the jurisdiction is based on diversity.

20 Ms. Caldwell was counsel or is counsel for the plaintiff
21 Mr. Johnson.

22 | And, Ms. Caldwell, do you wish to be heard on this?

23 MS. CALDWELL: Well, yes, sir. I'm in a very
24 awkward position here. I am not licensed to practice in the
25 state of California, and I have assiduously avoided doing

1 anything which might be construed as practice of law.
2 Mr. Johnson has been making efforts to obtain local counsel who
3 would be appropriate and fully licensed, and he has been
4 unable, thus far, to do so. He is a resident of the state of
5 Illinois. He is 82 years of age.

6 To my personal knowledge, he has made numerous phone
7 calls. I personally have spoken with attorneys that I thought
8 had the background needed for this case. It's not a matter of
9 anyone with a JD degree; it needs someone with expertise in
10 this area of intellectual property law.

11 I have not been in a position to comply with the Court's
12 requirements that we confer and submit scheduling orders and
13 all such as that because I'm not licensed.

14 THE COURT: Okay. I have a note from Mr. Cruz,
15 who's the clerk here in court, who has told me that last week
16 he spoke to your client, Mr. Johnson. Apparently Mr. Johnson
17 called the court, or Mr. Cruz called Mr. Johnson. In any
18 event, Mr. Johnson advised Mr. Cruz that he did not wish to
19 proceed with the matter and would request a voluntary dismissal
20 of the case.

21 So what I'm inclined to do today is to dismiss the case
22 without prejudice. That would provide Mr. Johnson with the
23 ability to secure other counsel competent to represent him here
24 in this court and revive the matter if he does that in due
25 time.

1 MS. CALDWELL: I understand, Your Honor. And I
2 would indicate to the Court that Mr. Johnson told me something
3 similar, but what I requested of him was that he put it in
4 writing to me and that I would carry out his instructions with
5 the Court today. I still don't have it in writing. And I
6 wanted it in writing because I have not seen Mr. Johnson eye to
7 eye on this issue, and I would not want him later to say that
8 he did not understand or he did something without being fully
9 informed by me.

10 THE COURT: Okay. So what we'll do today on the
11 Court's own motion, based on the status of the case, the Court
12 is going to dismiss this over objection of you. The dismissal
13 is without prejudice. And it's understood that Mr. Johnson
14 could revive his matter before me in this court if he does that
15 in due time.

16 MS. CALDWELL: All right.

17 THE COURT: So I think that's the best we can
18 accomplish today.

19 MS. CALDWELL: I think it may well be, and it solves
20 my problem, although my problem is not really the focus of the
21 Court. But I appreciate it, Your Honor, and I appreciate an
22 opportunity to be heard today.

23 THE COURT: Sure.

24 And so I have counsel for the defendants present. And do
25 you wish to be heard?

1 MS. GIERL: Just a clarifying question, Your Honor.

2 THE COURT: Yes.

3 MS. GIERL: You mentioned that the dismissal without
4 prejudice would give plaintiff an opportunity to revive the
5 case before you. Is that a condition of refiling, if it's
6 refiled in the Central District?

7 THE COURT: He does not have to refile. The matter
8 has been transferred here formally. Go ahead.

9 MS. GIERL: But if he does refile, is it a condition
10 that he refile in the Central District of California? That's
11 something that my client specifically requested.

12 THE COURT: The Court would order that the matter --
13 so this -- if he refiles the case, it would be related to the
14 current case, 07600, so it should be related to this case, and
15 it should come back before this Court.

16 MS. GIERL: Understood. Thank you, Your Honor.

17 THE COURT: So the order would be if Mr. Johnson
18 files a separate complaint separate and apart from the one
19 ordered in this court, it would be filed in the Central
20 District, it would be related to 07600, and it would come to
21 this Court.

22 MS. GIERL: Thank you, Your Honor.

23 THE COURT: And we will just see what happens.

24 MS. CALDWELL: Thank you. I understand, Your Honor.
25 This is a situation -- I know what opposing counsel's concern

1 is. She has represented her client before the court in
2 Illinois and in Tennessee and now in California. She doesn't
3 want to go all over the country. I understand that. This case
4 kind of goes all over the country.

5 There are some new matters that have arisen in 2018, after
6 the filing of this case, that might take Mr. Johnson to the
7 state of New Jersey or the state of New York, but if he filed
8 there, it would be on claims with different dates than those
9 before the Court in case number 07600. I would assume he would
10 have the freedom to file that case wherever he wanted to file
11 it.

12 THE COURT: Well, we will have to see what happens.

13 I'm going to order a transcript of today's proceedings,
14 the transcript to be paid by the defendant because Mr. Johnson
15 is not present, and we will just have to see what happens going
16 forward. The Court is going to do its best to keep order in
17 these proceedings and not allow Mr. Johnson to file matters in
18 other districts that are related to this case before me.

19 MS. CALDWELL: All right. Thank you.

20 THE COURT: Thank you.

21 MS. GIERL: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (Proceedings concluded at 8:53 a.m.)

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CERTIFICATE OF OFFICIAL REPORTER

COUNTY OF LOS ANGELES)
STATE OF CALIFORNIA)

6 I, CAROL JEAN ZURBORG, Federal Official Realtime
7 Court Reporter, in and for the United States District Court for
8 the Central District of California, do hereby certify that
9 pursuant to Section 753, Title 28, United States Code that the
10 foregoing is a true and correct transcript of the
11 stenographically reported proceedings held in the
12 above-entitled matter and that the transcript page format is in
13 conformance with the regulations of the judicial conference of
14 the United States.

15
16 Date: February 14, 2019

/s/ CAROL JEAN ZURBORG

CAROL JEAN ZURBORG, CSR NO. 7921, CCRR, RMR
Federal Official Court Reporter